

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Dena Griggs,

Civil Action No.:

Plaintiff,

vs.

Wal-Mart Stores East, L.P.,

NOTICE OF REMOVAL

Defendant.

1. Defendant Wal-Mart Stores East, L.P. (hereinafter, "Defendant") files this Notice of Removal of the above-titled action from the Court of Common Pleas of Marlboro County, South Carolina, to the United States District Court for the District of South Carolina, Florence Division, pursuant to 28 U.S.C. § 1441.

2. The above-titled action was instituted by the Plaintiffs against Defendant by service of a Summons and Complaint that were filed on December 9, 2021, in the Marlboro County Court of Common Pleas and served on Defendant via their registered agent, CT Corporation, on January 11, 2022. The action is currently pending in the Court of Common Pleas for Marlboro County, South Carolina, Case No. 2021-CP-34-00325. No further proceedings have been filed and the Summons and Complaint constitute all process, pleadings or orders properly served in this action. Pursuant to 28 U.S.C. § 1446(a), Defendant files herewith a copy of the Summons and Complaint.

3. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because Plaintiff could have originally filed the action in this Court pursuant to 28 U.S.C. § 1332. Specifically, this suit is removable because there is complete diversity of citizenship between Plaintiff and Defendant and, upon information and belief, Plaintiff's claimed injuries and damages exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00); therefore, the amount in

controversy in this action exceeds Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), exclusive of interests and costs.

4. At the time of commencement of the action, Plaintiff was and still is a citizen and resident of South Carolina. Wal-Mart Stores East, L.P., which was the operator of the subject store at all times relevant to the present action, was at the time of the commencement of the action, and still is, a corporate entity organized and existing under the laws of a state other than South Carolina and having its principal place of business in a state other than South Carolina. Specifically, pursuant to 28 U.S.C. § 1332(c)(1), Wal-Mart Stores East, L.P., is a citizen of both Delaware and Arkansas, as it is a Delaware limited partnership with its principal place of business in Arkansas. The partners of Wal-Mart Stores East, L.P., are WSE Management, LLC (general partner) and WSE Investment, LLC (limited partner). Both are Delaware limited liability companies with their principal places of business in Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, which is an Arkansas limited liability company with its principal place of business in Arkansas. Wal-Mart Stores East, LLC is a wholly-owned subsidiary of Walmart Inc., which is a Delaware corporation with its principal place of business in Arkansas.

5. Plaintiff's Complaint arises from an alleged incident in which she asserts that on October 31, 2019, as she reached the shopping cart bin and turned to enter the store, an employee of the Defendant pushed the line of shopping carts into the Plaintiff causing alleged injuries and other damages. *See* Pl.'s Compl. at ¶¶ 4-8. Plaintiff alleges that Defendant's actions led to her alleged injuries. Additionally, Plaintiff alleges that Defendant was negligent, willful, wanton, reckless and grossly negligent in one or more of the following particulars: in failing and neglecting to keep the shopping carts safely in the cart bin; in pushing the carts at a speed and strength causing

the carts to go through the bin and into the Plaintiff; in failing to erect or post warning signs or otherwise give notice to the Plaintiff of the dangerous condition being caused by the moving shopping carts; in failing and neglecting to inspect the area to ensure that no patrons were close enough to the cart bin to possibly be injured; and in failing to exercise that degree of care and caution that a reasonably prudent business owner would have exercised under the circumstances, which led to this alleged incident. *See* Pl.'s Compl. at ¶¶ 8(a-e). Plaintiff further alleges that as a result of the alleged incident, she sustained injuries and damages, including but not limited to injury to her back and leg, that Plaintiff was rendered sick, sore, disabled, bruised and shocked thereby and continues so to be, that all of such injuries have caused the Plaintiff extreme and excruciating pain continuously to this date and the Plaintiff will continue to suffer such pain in the future, that as a direct and proximate result of the negligence as aforementioned, the Plaintiff suffered severe bruises and contusions and great pain and suffering. Pl's Compl. at ¶¶ 9-11. Plaintiff also asserts a claim for punitive damages. *See* Pl.'s Compl. at ¶¶ 12. Further, Plaintiff submitted a pre-litigation demand to Defendant alleging medical damages in excess of One Hundred Thousand and 00/100 Dollars (\$100,000.00).

6. Based upon the allegations of Plaintiff's Complaint and her claim of medical damages in excess of One Hundred Thousand and 00/100 Dollars (\$100,000.00), the amount in controversy in this matter exceeds the sum of Seventy-Five Thousand 00/100 Dollars (\$75,000.00), exclusive of interest and costs. Accordingly, said action is one over which the District Court of the United States has original jurisdiction under 28 U.S.C. § 1332 for the reasons set forth above.

7. Defendant hereby gives counsel for the Plaintiff written notice of the removal of this action and will provide a copy of the filed Notice of Removal to the Clerk of Court for

Marlboro County, as required by 28 U.S.C. § 1446(d).

8. Defendant files this Notice of Removal within thirty (30) days of the receipt of Plaintiff's Complaint in the state court action, which was the first pleading properly served upon Defendant setting forth Plaintiff's claims for relief.

WHEREFORE, Defendant respectfully submits this Notice of Removal this 4th day of February, 2022.

s/ Nashiba D. Boyd

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